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6 Attorneys for Plaintiff
JANE DOE
7

8 IN THE UNITED STATES DISTRICT COURT FOR
9 THE CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

10 JANE DOE, } Case No. 8:23-cv-01324
11 Plaintiff, }
12 vs. }
13 ROB BONTA, in his official capacity as }
Attorney General of the State of California, }
and DOES 1 TO 10, }
14 Defendants. }
15 _____ }
16
17

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

18 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS:

19 **EXECUTIVE SUMMARY**

20 The Second Amendment to the United States Constitution guarantees “the right
21 of the people to keep and bear arms.” Plaintiff JANE DOE submitted an application
22 for a Concealed Carry Weapon (“CCW”) license to the Sheriff’s Department of
23 Orange County, California on February 17, 2023. The reason for the application was
24 to allow Plaintiff to be able to provide for her own safety. Plaintiff was the victim of a
25 brutal rape while a minor. She suffered physical and psychological trauma. She was
26 involuntarily hospitalized for three days while still a minor. After the passage of five
27 years which occurred on August 29, 2022, Plaintiff applied for and received a Court
28 Order relieving her from being a prohibited person under *Wel. & Inst. Code* §8103.

1 Plaintiff has been issued CCW licenses in three States: Utah #xxxx4861 on
 2 May 17, 2023; Arizona #xxxx4371 on April 10, 2023; and Florida #Wxxx2601 on
 3 May 8, 2023. Based on reciprocity, she is licensed to carry a concealed weapon in 40
 4 States. Plaintiff is a law-abiding citizen who has never been arrested nor convicted of
 5 any crime. Plaintiff was a victim of a violent crime which occurred when she was a
 6 child. On July 13, 2023, her application for a CCW license was denied, with the
 7 stated reason being: “The requirement of good moral character was not satisfied due
 8 to failing the psychological examination.” “Good moral character” and or reliance on
 9 a contrived psychological examination result which has been superseded by State
 10 Court Order, appears to be a substitute for “proper cause,” which our Highest Court
 11 held was an unconstitutional hurdle to acquiring a CCW, see *New York State Rifle &*
 12 *Pistol Association, Inc. v. Bruen*, 142 S.Ct. 2111, 2126, 213 L.Ed.2d 387 (2022). An
 13 important goal of society is to protect the safety of persons who are victims of violent
 14 crimes, minorities, and/or less physically able to protect themselves, *Id.*, at 2151.
 15 But, the expressed instruction to deny applications for CCW originated in
 16 Defendants’ office one day after the Highest Court issued its *Bruen* opinion.

17 Plaintiff challenges denial of her application for CCW license because the
 18 denial was based on unconstitutional application of *California Penal Code* (CPC)
 19 §26150. A State Officer’s assertion that absence of good moral character based on a
 20 psychological hold being placed on Plaintiff which occurred after a brutal rape while
 21 a minor and which psychological hold was negated by State Court Order, violates the
 22 Fourteenth Amendment by preventing Plaintiff from exercising her Second
 23 Amendment right to keep and bear arms in public for her own self-defense.

24 **JURISDICTION AND VENUE**

25 1. This civil action arises under 42 U.S.C. §1983, and under the Second and
 26 Fourteenth Amendments of the United States Constitution. Plaintiff challenges the
 27 constitutionality and selective enforcement of *California Penal Code* (CPC) §26150.
 28 ///

1 2. This Court has subject matter jurisdiction pursuant to U.S. Constitution
2 Article III, Section 2.

3 3. This Court has personal jurisdiction over Defendant, because ROB
4 BONTA, in his official capacity as Attorney General of the State of California, is the
5 head enforcement officer in California and has jurisdiction over the Orange County
6 Sheriff's Department, Carry a Concealed Weapon (CCW) Licensing Unit, which
7 denied Plaintiff's CCW application. Written instructions on denial of CCW
8 applications originated in Defendant's office.

9 4. Venue properly lies within the U.S. Central District of California
10 pursuant to 28 U.S.C. §§ 1391(b), (c), and (d) because Defendants are subject to
11 personal jurisdiction in this Judicial District as set forth above, and Plaintiff has
12 been harmed by Defendants' conduct, as described below, in this Judicial District.

PARTIES

14 5. Plaintiff is and at all times was a resident of Orange County, California.

15 6. Defendant ROB BONTA, in his official capacity as Attorney General of
16 the State of California, has his offices at 300 S. Spring St. #1700, Los Angeles,
17 California 90013.

18 7. The true names and capacities, whether individual, corporate, associate,
19 or otherwise, of Defendants sued as DOES 1 through 10, inclusive, are unknown to
20 Plaintiff who therefore sues said Defendants by such fictitious names; Plaintiff will
21 amend this complaint to show such true names and capacities when he has ascertained
22 the same.

23 8. At all times herein mentioned, each of the Defendants was the agent
24 and/or employee of each of the remaining Defendants, and was at all times herein
25 mentioned acting within the course and scope of such agency and employment, and/or
26 ratified the actions or omissions of each of the other Defendants. Plaintiff is further
27 informed and believes, and thereon alleges, that each of the said Defendants is in
28 some way responsible for the obligations hereinafter alleged.

FACTUAL BACKGROUND

2 9. Plaintiff is a 22 year-old law abiding U.S. citizen. As a minor, she was
3 the victim of sexual assault and rape. Due to the physical and psychological injuries
4 which she sustained, she was involuntarily hospitalized for three days while still a
5 minor. Her status as a person prohibited from having a firearm under *Wel. & Inst.*
6 *Code* §8103 was changed by Court Order on March 29, 2023. Plaintiff holds CCW
7 licenses in three States: Utah, Arizona and Florida. Under reciprocity, she is licensed
8 for CCW in 40 States.

9 10. Plaintiff applied for a CCW license to the Orange County Sheriff's
10 Department on February 17, 2023. With the application she paid the fees, submitted a
11 completed Live Scan request, and a "Certificate of Training/Shoot Carry Concealed
12 Weapon - Initial CCW Class" from a registered agency. She made her life history an
13 open book to the licensing unit. The licensing unit pursuant to written instructions
14 from Defendants and each of them demanded a psychological examination. There
15 was no justification for such an examination, and Plaintiff purportedly "failed" the
16 examination. Reliance on the alleged failure is barred by res judicata and/or collateral
17 estoppel given the California State Court Order preventing Defendants from reliance
18 on her previous status as a prohibited person.

19 11. *California Penal Code* (CPC) §26150 governs applications for CCW
20 licenses. It states in pertinent part:

21 (a) When a person applies for a license to carry a pistol,
22 revolver, or other firearm capable of being concealed
23 upon the person, the sheriff of a county may issue a
24 license to that person upon proof of all of the
25 following:
26 (1) The applicant is of good moral character.
27 (2) Good cause exists for issuance of the license.
28 (3) The applicant is a resident of the county or a city

within the county, or the applicant's principal place of employment or business is in the county or a city within the county and the applicant spends a substantial period of time in that place of employment or business.

(4) The applicant has completed a course of training as described in Section 26165.

• • •

9 12. On July 13, 2023, the Orange County Sheriff's Department CCW
10 Licensing Unit sent Plaintiff an email that her permit application was denied, with the
11 stated reason: "The requirement of good moral character was not satisfied due to
12 failing the psychological examination."

13 13. Plaintiff served a Government Claims Act notice on the Attorney
14 General.

COUNT ONE

**42 U.S.C. §1983 ACTION FOR DEPRIVATION OF PLAINTIFF'S RIGHTS
UNDER U.S. CONSTITUTION AMENDMENTS II AND XIV
(Against All Defendants)**

19 14. Plaintiff incorporates herein by reference the allegations of paragraphs 1
20 through 13 as though fully set forth herein.

21 15. Plaintiff is a law-abiding, responsible member of society and is included
22 in the “the people” protected by the Second Amendment.

23 16. Defendant, under the color of *California Penal Code* (CPC) §26150,
24 deprived Plaintiff of her rights under the Second and Fourteenth Amendments to the
25 U.S. Constitution. Plaintiff's claim arises under 42 U.S.C. §1983. Plaintiff's
26 involuntary medical hold following a brutal rape while a child, did not involve moral
27 turpitude so as to violate the requirement of good moral character. A Superior Court
28 upheld Plaintiff's right to apply for CCW by ordering the removal of the prohibited

1 person status. This ruling should be considered res judicata or collateral estoppel to
2 any challenge that Plaintiff is somehow unfit to have a CCW license. Defendant's
3 interpretation of the Penal Code, unduly burdens conduct protected by the Second
4 Amendment.

5 17. To determine with the CCW applicant is of good moral character, the
6 application required a psychological examination. However, the licensing officials
7 did not take into consideration the Court Order removing the bar to being issued a
8 CCW license in deciding to deny Plaintiff's application. In that manner, the good
9 moral character requirement was selectively enforced against Plaintiff.

18. By infringing the right to bear arms in public, Defendant violated the
Second Amendment, which applies to Defendant by operation of the Fourteenth
Amendment, both facially and as applied to Plaintiff. Any penal code which imposes
a good moral character clause or hurdle is invalid.

14 || Wherefore, Plaintiff prays for:

15 1. For a judicial determination that *California Penal Code (CPC)*
16 §26150(a)(1) is unconstitutional;

17 2. For temporary and permanent injunction granting Plaintiff's CCW
18 license or precluding Defendant from relying on the good moral character clause of
19 the Penal Code;

20 || 2. For costs; and

21 || 3. For such further relief as may be proper.

Respectfully submitted,

**FLYER & FLYER, A PROFESSIONAL
LAW CORPORATION**

25 || Dated: July 24, 2023

By:

/s/ David R. Flyer
David R. Flyer
Raquel Flyer
Attorneys for
Plaintiff JANE DOE